

SECOM-D-083

11 April 1983

MEMORANDUM FOR: Members, DCI Security Committee

FROM: 

Chairman

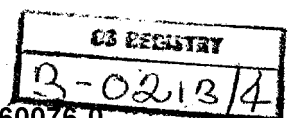
SUBJECT: Revision of DCID 1/7

1. Subsequent to SECOM action on the draft revision of DCID 1/7, the Office of General Counsel advised us of three areas of concern to them about the document. Discussion with them resulted in suggested changes as described below.

a. A problem not previously envisaged has arisen with regard to use of ORCON-controlled material. Some organizations receiving ORCON material have opened overt investigations based on the material without consulting with the originator beforehand. This has jeopardized some sensitive sources. In order to ensure that recipient agencies are put on notice of the requirement to consult with originators of ORCON material before initiating investigative action or otherwise acting overtly on the information involved, it is suggested that the first sentence of section 6.b(2) of the draft revision be re-worded as follows: "Information bearing this marking may not be disseminated or used in whole or in part, through briefings, incorporation into reports, taking investigative action, on in any other manner, outside the headquarters elements of the recipient organizations without the advance permission of and under conditions specified by the originator."

b. Section 3.b of the draft revision provides in part that "it is necessary to provide controlled relief to the 'third agency rule' within the Intelligence Community in addition to that provided by the National Security Act of 1974 (50 U.S.C. 403(d))" (emphasis added). The National Security Act, however, does not provide relief from the third agency rule set forth in E.O. 12356. Thus, the reference to the Act does not seem appropriate. Section 4.1 of E.O. 12356 provides in part that: "except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency" (emphasis added). Informal inquiry to the Information Security Oversight Office resulted in the advice that the language of E.O.

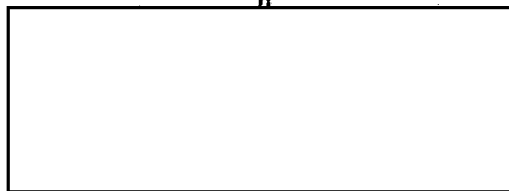
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12356 was not meant to change previous procedures on the "third agency rule." Since there seems to be agreement in the Community on the need for continuing relief from the Third Agency rule in accordance with the provisions of DCID 1/7, agreement by SECOM members could be considered to provide the "consent of the originating agency" required by the Order. The alternatives of seeking explicit Presidential approval or of ignoring the language of the Order do not appear reasonable. Accordingly, it is suggested that section 3.b of the draft revision be changed by deleting the words "in addition to that provided by the National Security Act of 1947 (50 USC 403(d))" from the end of the first sentence; and changing the second sentence to read "Accordingly, Intelligence Community organizations are hereby authorized consent to the use of each other's classified intelligence in their respective intelligence documents, publications, or other information media, and to the dissemination of their products to other Intelligence Community organizations, except as specifically restricted by control markings prescribed in paragraph 6."

c. The definition of "intelligence" given in the footnote on page 1 of the draft revision, by reference to the definitions in E.O. 12333 of foreign intelligence and counterintelligence, appears to have inadvertently excluded information on protective security matters from the directive's scope. It is suggested that this be remedied by adding a new subsection "(3)" to the footnote reading "Information on Intelligence Community protective security programs (e.g., personnel, physical, technical and information security)."

2. Members are requested to come to the 20 April 1983 SECOM meeting prepared to discuss and vote on these suggested changes. A copy of the draft revision of DCID 1/7 previously agreed to by SECOM is attached for reference. Further changes to DCID 1/7 may result from Compartmentation Subcommittee deliberations concerning NOCONTRACT material and Federal Contract Research Centers.



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Attachment